

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,

NO. CR 03-215 WBS KJM P

Respondent,

v.

ORDER

DAVID RAPHAEL KING,

Movant.

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Movant, a federal prisoner proceeding pro se, filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. The matter was referred to a United States Magistrate Judge pursuant to § 636(b)(1)(B) and Local General Order No. 262.

On May 12, 2009, the Magistrate Judge recommended that the court deny movant's § 2255 motion and close the companion civil case (Civ. No. 08-235). The Magistrate Judge's Findings and Recommendations provided movant with twenty days to file any objections. The Findings and Recommendations were mailed to

1 movant's last known address, but were returned as undeliverable
2 and unable to be forwarded on May 20, 2009.

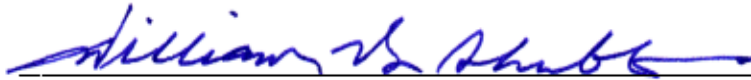
3 Although a movant is ordinarily responsible for keeping
4 the court apprised of a change to the movant's address, E.D.
5 Local Rule 83-182(f), the circumstances of this case appear to
6 have prevented movant from so notifying the court. Specifically,
7 the undersigned issued an arrest warrant for movant on March 5,
8 2009, and movant was arrested on May 9, 2009. (Docket Nos. 327 &
9 330.) On May 13, 2009--only one day after the Magistrate Judge
10 issued her Findings and Recommendations--movant was denied bail
11 and ordered to be transported to the Eastern District of
12 California as soon as practicable. (Docket No. 332.) Movant was
13 subsequently transported to the Sacramento County Main Jail on
14 May 20, 2009, and the Sacramento County Sheriff's Department
15 indicates that movant's current mailing address is David King X-
16 3450589 6W305A, Sacramento County Main Jail, 651 I Street,
17 Sacramento, California, 95814.

18 Given the close proximity of time between movant's
19 arrest, the attempted service of the Findings and
20 Recommendations, and the transfer of movant to the Sacramento
21 County Main Jail, the court concludes that it may not have been
22 possible for movant to notify the court of his current address
23 before the Findings and Recommendations were mailed.
24 Accordingly, the Magistrate Judge's Findings and Recommendation
25 shall be re-served on movant at his in-custody address and he
26 shall be given additional time to file any objections.

27 IT IS THEREFORE ORDERED that the Clerk of the Court
28 serve a copy of this Order and the Magistrate Judge's Findings

1 and Recommendations of May 12, 2009, to David King X-3450589
2 6W305A, Sacramento County Main Jail, 651 I Street, Sacramento,
3 California, 95814. Movant shall have twenty days from the date
4 of that service to file an objections.

5 DATED: July 20, 2009

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8 WILLIAM B. SHUBB
9 UNITED STATES DISTRICT JUDGE
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